

NOTE: This letter was reformatted to make it more accessible on the Student Privacy Policy Office's (SPPO's) website. Please note that SPPO administers FERPA and the office's prior name was the Family Policy Compliance Office (FPCO). Some citations in this letter may not be current due to amendments of the law and regulations. SPPO has not revised the content of the original letter. Any questions about the applicability and citations of the FERPA regulations included in this letter may be directed to [FERPA@ed.gov](mailto:FERPA@ed.gov).

March 15, 1991

Dr. Glenn G. Carter  
Director  
Office of Admissions and Records  
West Virginia University  
P.O. Box 6009  
Morgantown, West Virginia 26506-6009

Dear Dr. Carter,

This is in response to your letter dated January 31, 1991, in which you request guidance on the provisions of the Family Educational Rights and Privacy Act (FERPA) that would pertain to the disclosure of information from students' education records to the West Virginia State Police. The provisions of FERPA that pertain to this matter were discussed informally with you by telephone. However, you have requested a written response, particularly with regard to the provisions that would pertain to providing to the State police a list of students by national origin, i.e., either a list of those students of one nationally or a list of those students with a national origin other than the United States.

FERPA generally requires that an educational agency or institution (institution) obtain a student's prior written consent before disclosing personally identifiable information from the student's education records. However, there are certain exclusions to the consent requirement (34 CFR 99.31). Only one exclusion would generally apply to disclosures to a police agency. That exclusion allows institutions to disclose personally identifiable information if the disclosure is to comply with a judicial order or lawfully issued subpoena, provided the institution makes a reasonable effort to notify the student in advance of compliance. (34 CFR 99.31(a)(9)). If disclosure is made under this provision, the institution must adhere to the recordkeeping requirements of 34 CFR 99.32 and the redisclosure provisions of 34 CFR 99.31.

None of the other exclusions would generally apply. Specifically, the exclusion that allows disclosure of information that has been properly designated as directory information (34 CFR 99.31(a)(11)) does not apply. The nationality of students would not fall within the definition of the types of information that may be designated as "directory information" in 34 CFR 99.3. That provision states that "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Although name, address, and place of birth are listed as types of information that may be designated as "directory information", providing to a police agency a list of a group of students by nationally would generally be considered an invasion of privacy.

I trust the above information satisfactorily responds to your inquiry. Enclosed for your reference are a copy of 34 CFR, Part 99, and a copy of a model policy for postsecondary institutions to use in formulating a student records policy that meets the requirement of 34 CFR 99.6. If you have any further questions, please feel free to contact Ms. Connie Moore of my staff.

Sincerely,

/s/

LeRoy S. Rooker  
Director  
Family Policy Compliance Office

Enclosures